

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY
D/B/A DOMINION VIRGINIA POWER

CASE NO. PUE-2005-00018

For a certificate of public convenience
and necessity for facilities in Loudoun County:
Pleasant View-Hamilton 230 kV Transmission Line
and 230 kV-34.5 kV Hamilton Substation

FINAL ORDER

On April 14, 2005, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an Application of Virginia Electric and Power Company for Approval and Certification of Electric Facilities: Pleasant View-Hamilton 230 kV Transmission Line and 230 kV-34.5 kV Hamilton Substation ("Application"). Dominion proposes to construct and to operate in Loudoun County a 230 kV transmission line, which would run from the Company's existing Pleasant View Substation to a new Hamilton Substation. The Company has identified a proposed route approximately 15.7 miles in length and five alternative routes ranging from approximately 12.0 miles to 15.3 miles in length. Approximately 7.5 miles of the proposed route lies within the allotted territory of Northern Virginia Electric Cooperative. The remaining 8.2 miles of the proposed route and the site of the Hamilton Substation lie within the Company's allotted territory.

On May 6, 2005, the Commission issued an Order for Notice and Hearing that directed Dominion to publish public notice of its Application, established a procedural schedule, set hearing dates to receive public comment and evidence, and appointed a Hearing Examiner to conduct all further proceedings.

On January 7, 2007, Hearing Examiner Howard P. Anderson, Jr., entered a Report that summarized the record, analyzed the evidence and issues in this proceeding, and made certain findings and recommendations ("Hearing Examiner's Report"). The Hearing Examiner explained the extensive procedural history of this case and identified the following as respondents who filed notices of participation in this proceeding:¹

- Beauregard Estates Homeowners Association ("Beauregard Estates");
- Dewayne Brock Davenport ("Davenport");
- Kincaid Forest Homeowner's Association, Inc. ("Kincaid Forest");
- Leesburg Luxury Homes, L.L.C.;
- Loudoun County Fair and Associates, Inc. ("Loudoun Fair");
- Loudoun County, Virginia;
- National Trust for Historic Preservation ("National Trust");
- Northern Virginia Regional Park Authority ("Park Authority");
- Orme Farm, L.L.C. ("Orme Farm") and Cammack Brothers Partnership, L.P. ("Cammack Brothers");
- Oatlands, Inc. ("Oatlands");
- Renaissance Land, LLC;
- The Reserve at Rokeby Farm Property Owners Association, Inc. ("Rokeby Farm") and Centex Homes ("Centex");
- Richard R. Saunders, Jr. and Dianne Saunders;
- Save the Trail, Inc.;
- Scenic Loudoun Legal Defense, Inc.;
- Shenstone Farm Homeowner's Association and certain homeowners along Dry Mill Road, Leesburg ("Shenstone/Dry Mill");
- Town of Leesburg, Virginia; and
- Woodlea Manor Conservancy Homeowners Association ("Woodlea Manor").

As related by the Hearing Examiner, the record included statements of 167 public witnesses who testified at the public hearings in Leesburg on February 8 and 9, 2006.² The Hearing Examiner also noted that "the overwhelming majority urged the Commission to require

¹ Hearing Examiner's Report at 1-3, 7. The Examiner noted that Loudoun Fair and the Saunders withdrew as respondents, and that Mr. Saunders spoke as a public witness. *Id.* at 2 n.1, 7.

² *Id.* at 7.

that the proposed transmission line be placed underground."³ As highlighted in the Hearing Examiner's Report, the record in this case shows that "hundreds of letters, emails, and petitions have been filed with the Commission as public comment in this proceeding," that Save the Trail "presented petitions containing 4,740 signatures," that the "Commission received approximately 272 petitions from individuals of Woodlea Manor," that "Save Scenic Loudoun/Neighbors Against the Southern Transmission Line ('Save Scenic Loudoun') collected more than 800 signatures," and that the "following localities and commission submitted resolutions or comments:" The Town of Leesburg; The Town of Purcellville; The Town of Hamilton; The Town of Herndon; The Town of Hillsboro; The Town of Vienna; Loudoun County; Arlington County; City of Alexandria; Fairfax County; and Northern Virginia Regional Commission.⁴

The Hearing Examiner commenced the evidentiary hearing in Richmond on March 27, 2006, and then suspended the same to provide additional public notice of a new route (referred to as the modified D route) that the Hearing Examiner found should be considered in this proceeding.⁵ The Hearing Examiner reconvened the hearing on June 19, 2006, and with the exception of weekends and holidays, the hearing proceeded until its conclusion on July 13, 2006. The following counsel appeared at the hearings:⁶

- James C. Dimitri, Esquire; Stephen H. Watts II, Esquire; Lisa S. Booth, Esquire; Pamela Johnson Walker, Esquire; and Jill C. Nadolink, Esquire, for Dominion;
- Thomas B. Nicholson, Esquire, for the Town of Leesburg and Beauregard Estates; and Barbara Beach, Esquire, for the Town of Leesburg;
- John W. Montgomery, Jr., Esquire, for Loudoun County;

³ *Id.*

⁴ *Id.* at 10, 13-14.

⁵ *Id.* at 6, 15.

⁶ *Id.* at 15.

- Michael A. Montgomery, Jr., Esquire; and Anthony Gambardella, Esquire, for Orme Farm and Cammack Brothers;
- John H. Rust, Jr., Esquire, for Save the Trail;
- Cliona Mary Robb, Esquire, for the Park Authority;
- James E. Cornwell, Jr., Esquire; M. Ann Neil Cosby, Esquire; Benjamin R. Lacy, IV, Esquire; Robert McKew, Esquire; Kenneth F. Parks, Esquire; and Michael Gartner, Esquire,⁷ for Scenic Loudoun Legal Defense and Woodlea Manor;
- Kelly Thompson Cochran, Esquire; David S. Wolf, Esquire; and William R. Richardson, Jr., Esquire, for Oatlands and National Trust;
- Matthew D. Pethybridge, Esquire; and Jennifer Shirey, Esquire, for Kincaid Forest;
- Charles W. Hundley, Esquire; and Catharine T. Slater, Esquire, for Dewayne Brock Davenport;
- John E. Rinaldi, Esquire; and Wendy A. Alexander, Esquire, for Centex Homes, Rokeby Farm, and WCI Mid-Atlantic U.S. Region, Inc. ("WCI");
- Randolph A. Sutliff, Esquire, for Shenstone/Dry Mill; and
- Wayne N. Smith, Esquire; and Arlen K. Bolstad, Esquire, for Commission Staff ("Staff").

Post-hearing briefs were filed on September 18, 25, and 26, 2006.⁸

The Hearing Examiner's Report included the following findings:⁹

1. There is a need for the Company's proposed 230 kV Pleasant View to Hamilton transmission line;
2. There is a need for the Company's proposed Hamilton Substation;
3. Construction of the proposed transmission line and substation is required by the public convenience and necessity;
4. The Company has failed to prove that existing rights-of-way cannot serve the needs of the Company;
5. The proposed transmission line should not be constructed underground;
6. An overhead transmission line along the modified D route incorporating adjustments B.1, B.5, segment 7 prime ("Modified D"), and using 145-foot towers where appropriate will reasonably minimize the adverse

⁷ Mr. Gartner appeared for Woodlea Manor only. Tr. 727.

⁸ Hearing Examiner's Report at 16.

⁹ *Id.* at 80-81.

impact on scenic assets, historic districts, and the environment of the area concerned;

7. No other viable route for the location of the transmission line exists that is not in conflict with the public interest;
8. There is no evidence in this proceeding, scientific or otherwise, to conclude that electric and/or magnetic fields pose a risk or hazard to human health; and
9. The Company should follow federal EPA guidelines in its application of herbicides for right-of-way maintenance.

Participants filed comments on the Hearing Examiner's Report on or before January 25, 2007.

On February 21, 2007, the Commission issued an Order Remanding for Further Proceedings to address certain issues regarding routing and underground construction. The Hearing Examiner convened the remand hearing on July 31 – August 2, 2007. Post-hearing briefs were submitted on or before September 28, 2007.

On November 28, 2007, the Hearing Examiner submitted a Supplemental Report ("Supplemental Report"), which further found as follows:¹⁰

1. The Modified D route with overhead construction reasonably minimizes adverse impacts to the scenic assets, historic districts, and environment of the area concerned, and therefore, should be adopted;
2. For a period of one year subsequent to planting restorative vegetation and trees, the Company should be directed to replace all trees and vegetation that do not survive; and
3. The Company has failed to show a present need for an additional twenty feet of right-of-way along the segments of the E7 and D3 routes west of U.S. Route 15.

The following filed comments on the Supplemental Report on or before December 19, 2007:

Dominion; Centex, Rokeby Farm, and WCI; Nancy Ann Davenport; Orme Farm and Cammack

¹⁰ Supplemental Report at 21.

Brothers; Oatlands and National Trust; Park Authority; Shenstone/Dry Mill; Town of Leesburg; and Staff.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report and Supplemental Report, the comments filed in response thereto, and the applicable law, is of the opinion and finds as follows. We conclude that the public convenience and necessity require construction of the proposed line and Hamilton Substation as provided for and subject to the requirements set forth in this Final Order.¹¹

Code of Virginia

Section 56-265.2 A of the Code of Virginia ("Code") provides that "[i]t shall be unlawful for any public utility to construct ... facilities for use in public utility service ... without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 A of the Code directs the Commission to consider several factors in reviewing proposed new facilities. It provides:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. ... In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted.... Additionally, the Commission (i) shall consider the effect of the proposed facility on economic development within the Commonwealth and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

¹¹ We note that some of these findings were initially set forth in the Commission's February 21, 2007 Order Remanding for Further Proceedings.

Section 56-46.1 B of the Code states that, with regard to overhead transmission lines, "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned...."

Section 56-46.1 D of the Code explains that "'environment' or 'environmental' shall be deemed to include in meaning 'historic,' as well as a consideration of the probable effects of the line on the health and safety of the persons in the area concerned."

Section 56-46.1 C of the Code directs that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company."

Section 56-259 C of the Code states that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Section 56-46.1 E of the Code provides as follows:

In the event that, at any time after the giving of the notice required in subsection B of this section, it appears to the Commission that consideration of a route or routes significantly different from the route described in the notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed in accordance with subsection B of this section. The Commission shall thereafter comply with the provisions of this section with respect to the new route or routes to the full extent necessary to give interested parties in the newly affected areas the same protection afforded interested parties affected by the route described in the original notice.

Need

Although certain parties and public witnesses challenged the need for the line, we find that additional transmission facilities and the Hamilton Substation are needed to serve the

Purcellville Load Area. We agree with the Hearing Examiner that additional facilities will provide substantial reliability improvements to such area. Company witnesses Burnam and LaVigne testified that, under normal load conditions, the load in the Purcellville Load Area will nearly exceed the capacity of the distribution circuits by the summer of 2011 and that, with the loss of one of the four circuits due to an outage, the load will nearly exceed the capacity of the remaining three circuits by the summer of 2007 and will exceed that capacity by the summer of 2008.¹²

The Hearing Examiner also explained that the Company evaluated reasonable alternatives to the proposed line; the Hearing Examiner concluded, as did the Company, that "no alternative or combination of alternatives to the proposed transmission line and substation offers a reasonable solution to the explosive growth in electric demand in the Purcellville area."¹³ Our February 21, 2007 Order Remanding for Further Proceedings noted that Loudoun County is one of the fastest growing localities in the United States.¹⁴ We also note that subsequent to that Order and pursuant to Va. Code § 67-200 *et seq.*, the Commonwealth issued *The Virginia Energy Plan*, which further states as follows: "Significant demand growth has occurred in northern Virginia, where the population has increased by 66 percent since 1990. Loudoun and Prince William Counties consistently rank among the fastest growing counties in the United States."¹⁵ As concluded in the February 21, 2007 Order Remanding for Further Proceedings, we find that

¹² See, e.g., Dominion's January 25, 2007 Comments and Exceptions on Hearing Examiner's Report at 4-5.

¹³ Hearing Examiner's Report at 28.

¹⁴ See, e.g., *id.* at 28 ("Unbridled growth in western Loudoun County is driving the need for the Company's proposed transmission line and substation. According to the U.S. Census Bureau, Loudoun County was the fastest growing county in the United States in 2004. Loudoun County is still one of the fastest growing counties in the country today and there is no indication that this growth will abate in the foreseeable future.").

¹⁵ The Virginia Energy Plan, Commonwealth of Virginia, Department of Mines, Minerals and Energy, at 82 (2007) (citation omitted).

additional transmission facilities are necessary for the Company to serve reasonably estimated load growth and to maintain long-term reliability in the Purcellville Load Area.

Transmission Line Route

We find that the new transmission line should follow the Modified D route as recommended by the Hearing Examiner. As explained in prior cases, in evaluating proposed routes for a new transmission line, the Commission "consider[s] each statutory criterion on an individual basis and as part of the whole, in light of all the relevant statutory criteria and with regard to the concerns raised by the parties and public witnesses."¹⁶ We review all proposed routes and fully consider the benefits and adverse impacts of the same pursuant to the statutory requirements.¹⁷

Although we have not outlined herein all of the concerns expressed by each party regarding the proposed routes, we have considered and weighed the relevant factors raised in this proceeding. We also have considered and weighed the factors set forth in §§ 56-265.2 A and 56-46.1 of the Code, factors that are, to a large extent, interrelated and overlapping. We have reviewed all alternative proposals. We have fully considered the adverse impacts of the proposed routes on, among other things, the various participants in this case and others in the vicinity of the new line.

We conclude that Modified D meets the Company's need to maintain adequate reliability of service, while satisfying the legal standards of §§ 56-265.2 A and 56-46.1 of the Code. We have considered each statutory criterion on an individual basis and as part of the whole, in light of all the relevant statutory criteria and with regard to the concerns raised by the parties and

¹⁶ See *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power*, Case No. PUE-2002-00702, 2004 S.C.C. Ann. Rept. 347, 349 (Oct. 8, 2004).

¹⁷ See *id.* at 350.

public witnesses. With respect to Modified D, we have fully considered the adverse impacts on the various participants in this case and others in the vicinity of the new line, including but not limited to the Park Authority and the Washington & Old Dominion ("W&OD") Trail, Shenstone/Dry Mill, and Town of Leesburg. No route can eliminate all adverse impacts. We find that Modified D minimizes as much as practicable adverse impact on scenic assets, historic districts, and environments of the areas concerned, and results in fewer adverse impacts than other proposed routes. We have given consideration to the Town of Leesburg's comprehensive plan and conclude that any incompatibility of Modified D to that plan does not warrant a finding different from that which we make herein. In addition, we find that Modified D gives reasonable consideration to the effect of the new line on economic development within the Commonwealth.

Underground Construction

We adopt the Examiner's recommendation against underground construction due to both the physical, and the cost to ratepayers, impacts that would result therefrom.¹⁸

Existing Rights-of-Way

Under § 56-46.1 C of the Code, Dominion is required to provide adequate evidence that existing rights-of-way cannot adequately serve its needs. As explained by the Examiner, Modified D uses significant existing rights-of-way, including existing distribution line right-of-way and right-of-way along the W&OD Trail. To the extent that Modified D does not use existing rights-of-way, we find that such cannot adequately serve the needs of the Company.

In addition, we note that Modified D utilizes Virginia Department of Transportation ("VDOT") rights-of-way associated with the limited access Route 7 corridor and the Route 7 bypass. In this regard, the Company explains as follows:

¹⁸ See, e.g., Supplemental Report at 17-18.

[Company witness] Mr. Bailey has stated that, if the Commission were to find that the project is in the public interest along the D routes (along Route 7), VDOT would be able to allow it as an exception. Tr. 2541. Mr. Heltzel of VDOT agreed that, if the Commission reviews all of the routes and determines that a D route or the modified D route is in the public interest, VDOT would work with the Company to engineer routing through the Route 7 areas discussed with him. Tr. 4827.¹⁹

Having concluded, pursuant to § 56-265.2 A of the Code, that the public convenience and necessity require construction of the proposed line as approved in this Final Order, we likewise conclude that the transmission line – along the Modified D route as ordered herein – is required by the public interest.

Use of Narrow Single-Shaft Poles

As explained by the Hearing Examiner, the transmission line will be constructed on single-shaft steel pole structures.²⁰ Single-shaft structures have a far more narrow profile than lattice-type structures. For example, Exhibit 70 illustrates the visual profile of the single-shaft model, which will reduce substantially the visual impact of the line as compared to a lattice-type structure.

Furthermore, we find that the Company shall follow the principles recommended by the Hearing Examiner in determining pole location along the W&OD Trail:

I find that certain principles should be followed in determining pole locations along the Trail. The primary consideration must be

¹⁹ Dominion's January 25, 2007 Comments and Exceptions on Hearing Examiner's Report at 30 n.22.

²⁰ Hearing Examiner's Report at 26.

a sound engineering design and the Company must be afforded the flexibility it needs to construct the line using accepted engineering principles. Placing the poles and conductors as far away from residences as possible must also be a top priority. The poles should be located on existing right-of-way wherever possible. This would include VDOT right-of-way, the Trail property right-of-way, and the distribution line right-of-way. However, the poles should not be placed directly adjacent to the paved pathway of the Trail or the equine trail unless absolutely necessary. The line should be engineered to require minimal tree removal and trimming. The Company should seek a balance of these factors in determining a final engineering design.²¹

Vegetation

We adopt the Hearing Examiner's recommendation that the Company, for a period of one year subsequent to planting restorative vegetation and trees, replace all trees and vegetation that do not survive.²²

We also adopt the Hearing Examiner's recommendation that the Company follow federal Environmental Protection Agency guidelines in its application of herbicides for right-of-way maintenance.²³

Width of Right-of-Way for Future Needs

Dominion requests the Commission to authorize acquisition of an additional twenty feet of right-of-way for segments 1 and 4 of Modified D; this would extend the right-of-way from 80 feet to 100 feet. Dominion states that this additional right-of-way "may be useful in providing

²¹ Supplemental Report at 18.

²² Supplemental Report at 18-19, 21.

²³ Hearing Examiner's Report at 31, 81.

service in the future."²⁴ We reject this request and agree with the Hearing Examiner that Dominion has failed to show a present need for the additional twenty feet of right-of-way.²⁵

Electric and/or Magnetic Fields

We agree with the Hearing Examiner and find that there is insufficient evidence in this proceeding for us to conclude that electric and/or magnetic fields pose a risk or hazard to human health.²⁶

Hamilton Substation

Dominion previously acquired the site for the proposed Hamilton Substation. While there is residential development in the vicinity, the substation site is adjacent to Route 7. In this location, the highway has a right-of-way width of 150 feet and has been in use since the 1970's. The Company stated that Loudoun County's erosion and sedimentation requirements will apply to the substation. No adverse impacts attributable to locating the substation at the proposed location were identified that warrant denial or modification of the proposed Hamilton Substation.

Dominion Point(s) of Contact

We recognize that portions of the route approved herein will require complex design and construction to help minimize adverse impacts. For example, Shenstone/Dry Mill and the Park Authority expressed concern about aspects of the construction along portions of the W&OD Trail. The Town of Leesburg also identified sections of the route that were of concern. We find that the Company should identify an employee or employees with responsibility to address promptly, during construction, concerns that may be raised by any landowner or resident along

²⁴ Dominion's December 19, 2007 Comments and Exceptions to Supplemental Report at 14.

²⁵ Supplemental Report at 20-21.

²⁶ Hearing Examiner's Report at 31, 80.

the approved route. This would include, but obviously not be limited to, concerns raised during construction by the Park Authority, Shenstone/Dry Mill, and the Town of Leesburg.

Each contact designated by the Company must be an employee of Dominion, not a contractor, with knowledge of construction practices and Company policies on land clearing and vegetation removal. A designated employee must have electronic mail, a toll-free telephone number, and voice mail to receive inquiries or complaints. A designated employee must be able to reach any point on the approved route within a reasonable period of time to meet with landowners, residents, and/or their representatives to inspect any situation of concern. Within 30 days from the date of this Final Order, the Company shall provide written notice to the Commission's Division of Energy Regulation and all parties to this case identifying the name and contact information of the designated employee(s) required herein. The identified employee(s) shall be available for this function no later than the time at which the Company places any markers identifying the location of the line. Dominion shall provide such contact(s) until the line is energized. If the Company changes such employee designations during construction, it shall promptly provide written notice to the Commission's Division of Energy Regulation and all parties to this case.

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate a 230 kV single-circuit transmission line from its existing Pleasant View Substation to its proposed Hamilton Substation in Loudoun County and to construct the Hamilton Substation, as provided for and subject to the requirements set forth in this Final Order.

(2) Pursuant to §§ 56-265.2, 56-46.1, and related provisions of Title 56 of the Code of Virginia, Dominion's application for a certificate of public convenience and necessity to

construct a 230 kV single-circuit transmission line from its existing Pleasant View Substation to its proposed Hamilton Substation in Loudoun County and to construct the Hamilton Substation is granted as provided for and subject to the requirements set forth in this Final Order, and otherwise is denied.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§§ 56-265.1 *et seq.*) of Title 56 of the Code of Virginia, Dominion is issued the following certificate of public convenience and necessity:

Certificate No. 91p which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate presently constructed transmission lines and facilities in Loudoun County, all as shown on the detailed map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2005-00018; Certificate No. 91p will cancel Certificate No. 91o issued to Virginia Electric and Power Company on October 8, 2004, in Case No. PUE-2004-00702.

(4) Within thirty (30) days from the date of this Final Order, Dominion shall file with the Commission's Division of Energy Regulation two copies of an appropriate map that shows the routing of the transmission line and substation approved herein.

(5) As a condition of the certificate granted in this case, the transmission line and substation must be constructed and in-service by January 1, 2011; however, Dominion is granted leave to apply for an extension for good cause shown.

(6) This matter is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of

the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

A True Copy
Teste:

Joel H. Peck
Clerk of the
State Corporation Commission